



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/533,329

05/02/2005

Martin P McCormick

1290US2

5368

25279

7590

03/04/2008

GRACO MINNESOTA INC
PO BOX 1441
MINNEAPOLIS, MN 55440

EXAMINER

MEHRABIAN, SEVAN

ART UNIT

PAPER NUMBER

3746

MAIL DATE

DELIVERY MODE

03/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/533,329	Applicant(s) MCCORMICK ET AL.	
	Examiner SEVAN MEHRABIAN	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/29/2007 and 08/01/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a Final Office action in response to communications received January 30, 2008. Claims 1 and 2 have been amended. Therefore, claims 1 and 2 are pending and addressed below.

Response to Amendment

2. Applicant's amendments to the claims in view of applicant's arguments are sufficient to overcome the 35 USC 103 rejections set forth in the previous office action.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,878,601 to Flemming et al. (Flemming) in view of US Patent No. 4,989,756 to Kagamihara et al. (Kagamihara).

In Reference to Claim 1

Flemming teaches a proportioner for dispensing plural component material, said proportioner comprising: A variable speed electric motor (106) having first and second ends; a first reciprocating piston pump (90, Fig. 5) attached to said first motor end, said pump being connected to a source (84, Fig. 5) of a first material and having an output (100, Fig. 5) which has a first pressure; a second reciprocating piston pump (90, Fig. 5) attached to said second motor

end, said pump being connected to a source (84, Fig. 5) of a second material and having an output which has a second pressure; however, Flemming fails to teach the following which is taught by Kagamihara: a controller (23) with provision for a user-selectable (23a, 23b) setpoint, said controller continually comparing said first (17) and second (18) pressures and regulating the higher of said pressures to said setpoint (Column 4, lines 8-18).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the control system disclosed by Kagamihara in the dispensing apparatus of Flemming to achieve better efficiency and reliability by means of being able to run the dispensing apparatus autonomously while obtaining live data from the controller about the function, characteristics status of the different parts of the dispenser.

In Reference to Claim 2

Flemming teaches a proportioner for dispensing plural component material, said proportioner comprising: A variable speed electric motor (106) having first and second ends; a first reciprocating piston pump (90, Fig. 5) attached to said first motor end, said pump being connected to a source (84, Fig. 5) of a first material and having an output (100, Fig. 5) which has a first pressure; a second reciprocating piston pump (90, Fig. 5) attached to said second motor end, said pump being connected to a source (84, Fig. 5) of a second material and having an output which has a second pressure; however, Flemming fails to teach the following which is taught by Kagamihara: a controller (23) with

provision for a user-selectable (23a, 23b) setpoint, said controller continually monitoring said first (17) and second (18) pressures and providing an alarm in the event one of the said pressures falls to a predetermined percentage of said setpoint (Column 5, lines 5-10).

Response to Arguments

5. Applicant's arguments, see Page 4, lines 4-10, 14-16 filed January 30, 2008, with respect to the rejection(s) of claim(s) 1 and 2 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of US Patent Numbers, 4,878,601 to Flemming et al. and 4,989,756 to Kagamihara et al. The prior arts used to make the new grounds of rejection addresses all of applicant's arguments. Flemming discloses only two reciprocating piston pumps in his dispensing apparatus which uses only one pump per material, as emphasized by the applicant. Kagamihara further discloses a control system which incorporates display means as well as user setting means and comparing pressure means by the main controller (23).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

7. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SEVAN MEHRABIAN whose telephone number is (571)270-5058. The examiner can normally be reached on Monday through Friday, 9:30 AM to 7:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/533,329
Art Unit: 3746

Page 6

/Devon C Kramer/
Supervisory Patent Examiner, Art
Unit 3683

SM